"The accused gave his evidence in quite a frank manner and I can believe that he was telling the truth."

that the learned President, having heard the respondent's evidence, believed that he was telling the truth and that the explanation he had given for possession of the property might not only possibly but reasonably be true. Again, in the concluding paragraph of his judgment he stated:—

"After considering the defence story I come to the conclusion that it might well be true that the accused did, in fact, purchase the watch from Ah Seok and for this reason I have some doubt as to the guilt of the accused. And following the decision in the case of *Public Prosecutor* v. *Soong Chak Sung* (already cited) I find the accused not guilty and I acquit him."

It seemed to me clear, therefore, that there could be no question of the learned President having misdirected himself in law. Having heard the explanation given by the respondent as to how he came to be in possession of the stolen property, the learned President came to the conclusion that that explanation might reasonably be true and it left him in a genuine doubt as to whether the respondent knew or had reason to believe that the property in his possession was stolen property. He accordingly acquitted the respondent.

I would only add that some Magistrates may have a greater trust in the general honesty of human nature than others, and they may more readily accept and believe explanations from accused persons which other Magistrates would find no difficulty in rejecting as wholly incredible and unworthy of belief. It may well be that a Court differently constituted, bearing in mind that the respondent was the next door neighbour of the complainant and the fact that the respondent had failed to produce, or account for the absence of, the witness from whom he said he had bought the watch, would have come to a different conclusion in this case. But the learned President was the judge of fact, and on the facts before him, if he was left in an honest and genuine doubt, he was perfectly entitled to acquit the respondent. It was for these reasons that I had no hesitation in dismissing this appeal.

There is, however, one further matter, to which I would refer before leaving this case. The respondent was originally charged with the main offence of housebreaking. To that charge he pleaded guilty. The learned President, before passing sentence upon him, perfectly properly remanded him in custody with a view to obtaining a report upon him from the Probation Officer. When the matter again came before him 7 days later, the respondent was represented by an advocate, Mr. Triptipal Singh, who informed the Court that his client wished to withdraw his plea of guilty. The learned President thereupon permitted him to do so and to substitute therefor a plea of not guilty. Subsequently, the charge of housebreaking was withdrawn by the prosecution and the present charge of dishonestly retaining stolen property substituted therefor.

Now, there is, no doubt, a discretion vested in a trial Court to allow an accused person, before sentence, to withdraw a plea of guilty and to substitute a plea of not guilty. But that discretion requires to be exercised judicially and for valid reasons. An accused person cannot be permitted merely at whim to change his plea, except upon valid and sufficient grounds which satisfy the Magistrate that it is proper in the interests of justice that he should be allowed to do so. (See the case of *R.* v. *McNally*[3] and the cases cited in *Mallal's Criminal Procedure*, 4th edition, pp. 254 - 5)." In this case there is nothing upon the record to indicate that the respondent did not understand the nature of the original charge of housebreaking which was read to him, and to which he pleaded guilty, nor is there anything to show upon what grounds he sought to change his plea 7 days later, and why the learned President exercised his discretion in allowing him to do so. It is to be hoped that in future cases where a Magistrate thinks fit to exercise his judicial discretion in this manner, the grounds upon which the exercise of the discretion is sought, and the reasons which prompt the Magistrate to exercise it, will be fully stated upon the record.

Appeal dismissed.

THE COMPTROLLER OF INCOME TAX v. D. E. F.

[A. C. J. (Chua J.) August 12, 1960]

[Singapore — District Court Appeal No. 34 of 1959]

Revenue — Scheme of purchase and re-sale — Single transaction of purchase and sale of land — Whether profit therefrom liable to income tax.

Income Tax Ordinance (Cap. 166), s.10(1)(a) — "Trade" or "Business" — Whether isolated transaction constitute a "trade" or a "business" — Capital or income gain — Determination.

The taxpayer on December 22, 1955 purchased a rubber estate in Ipoh for $240,000, which he had borrowed from his rich brother free of interest. He never saw the estate. Within 18 days, on January 9, 1956, he sold the estate to the X. Garden Estates Ltd. for $485,000, thereby making a profit of $245,000. One of the two directors of X. Garden Estates Ltd. was W, the brother-in-law of the taxpayer's wife, and the negotiations for the sale of the rubber estate were done with W. The other director of X. Garden Estates Ltd., S., was the taxpayer's neighbour, and S.'s wife was a good friend of the taxpayer's family. It was S.'s wife who informed the taxpayer that the rubber estate was for sale. Both the taxpayer's wife and his rich brother were shareholders in X. Garden Estates Ltd. The taxpayer repaid the loan he took from his brother from the profit and kept the balance which he later invested. This was an isolated transaction in land and the taxpayer was not the nominee of any person or company.

The Comptroller of Income Tax made an additional assessment for the year 1956, upon the taxpayer in the sum of $69,121.48 on an income of $245,000, being the profit derived by the taxpayer from the sale of the rubber estate. The taxpayer appealed to the Income Tax Board of Review on the ground that the sale did not constitute the carrying out of a trade within the meaning of section 10(1)(a) and therefore the profit therefrom was not income within the meaning of section 10(1) of the Income Tax Ordinance. The taxpayer told the Board that, in buying the estate, his intention was to lease it out to some contractor to tap the rubber; he tried to get a contractor in December, 1955, but could not get one, so he sold the estate.

The Board found that the estate was purchased and sold in pursuance of a scheme of purchase and re-sale, and it did not accept the evidence of the taxpayer to the contrary, but it was of the opinion that the profit made by him was a capital appreciation and not a profit chargeable to tax.

The Comptroller appealed against that decision, contending that the isolated transaction of the taxpayer under consideration constituted a business of the taxpayer within the meaning of section 10(1)(a) of the Ordinance and the profit derived from this business was income and not capital appreciation. Two points arose in this appeal: (i) whether the $245,000 profit made by the taxpayer was profit from any trade or business of the taxpayer within the meaning of section 10(1)(a), and (ii) if it was, then whether it was assessable as income or was capital appreciation and therefore not chargeable to tax.

Held: (1) the isolated transaction of the taxpayer did not constitute a "trade" within the meaning of section 10(1)(a) of the Ordinance;

(2) the transaction constituted a "business" of the taxpayer within the meaning of section 10(1)(a);

(3) the profit in this "business" was assessable as income.

H. Co. Ltd. v. *Commissioner of Income Tax*(6) followed.

Principle for determining whether the profit in question is assessable as income or is capital appreciation and therefore not chargeable to tax laid down by Clerk L.J. in *California Copper Syndicate* v. *Harris*(13) followed.

Cases referred to:—

(1) *Rutledge* v. *Commissioners of Inland Revenue* 14 T.C. 490.
(2) *Commissioners of Inland Revenue* v. *Livingston* 11 T.C. 538.
(3) *Commissioners of Inland Revenue* v. *Fraser* 24 T.C. 498.
(4) *Edwards* v. *Bairstow* 36 T.C. 207.
(5) *Lecming* v. *Jones* 15 T.C. 333.
(6) *H. Co. Ltd.* v. *Commissioner of Income Tax* 1 East African Tax Cases 65.
(7) *Harris* v. *Amery* (1865) L.R. 1 C.P. 148.
(8) *Re a Debtor* [1927] 1 Ch. 97.
(9) *Hesketh Estates Ltd.* v. *Craddock* 25 T.C. 7.
(10) *Smith* v. *Anderson* (1880) 15 Ch. D. 247.
(11) *Rolls* v. *Miller* (1884) 27 Ch. D. 71.
(12) *Commissioners of Inland Revenue* v. *Marine Steam Turbine Co. Ltd.* [1920] 1 K.B. 193.
(13) *California Copper Syndicate* v. *Harris* 5 T.C. 159.

INCOME TAX APPEAL.

Lim Chor Pee (Crown Counsel) for the appellant.

Dennis Lee for the respondent.

Cur. Adv. Vult.

Chua J.: This is an appeal by the Comptroller of Income Tax from a decision of the Board of Review in regard to the profit made by the taxpayer (the respondent in this appeal) in the purchase and resale of a rubber estate.

The following facts were proved or admitted:

On the 22nd December 1955 the taxpayer purchased a rubber estate in Ipoh for the sum of $240,000. He had not inspected the estate. He had borrowed this $240,000, interest free, from his rich brother. Within eighteen days, on the 9th January, 1956, he sold the rubber estate to the X. Garden Estates Ltd. for the sum of $485,000, thereby making a profit of $245,000. The Directors of X. Garden Estates Ltd. were W. and S. W. was the brother-in-law of the taxpayer's wife and the negotiations for the sale of the rubber estate to the X. Garden Estates Ltd. was done with W. S. was the neighbour of the taxpayer and his wife was a close friend of the taxpayer's family. It was S.'s wife who informed the taxpayer that the rubber estate was for sale. The taxpayer's wife and rich brother were shareholders in the X. Garden Estates Ltd. The taxpayer repaid the loan he took from his brother from the profit and kept the balance which he later invested. This was an isolated dealing in land by the taxpayer and he was not the nominee of any person or Company.

The Comptroller, for the year of assessment 1956, made an additional assessment under the provisions of section 73 of the Income Tax Ordinance (Cap. 166) upon the taxpayer in the sum of $69,121.48 on an income of $245,000 which was the profit derived by the taxpayer from the sale of the rubber estate.

The taxpayer objected to this sum being assessed on him on the ground that the $245,000 was not income within the provisions of section 10(1) of the Ordinance. The Comptroller refused to amend the assessment and the taxpayer thereupon appealed to the Board of Review.

The taxpayer's contention before the Board was that the sale of the rubber estate did not constitute the carrying out of a trade within the meaning of section 10(1)(a) and that therefore the profit made from the sale was not income within the meaning of section 10(1) of the Ordinance.

The taxpayer told the Board that, in buying the rubber estate, his intention was to lease it out to some contractor to tap the rubber. He expected to get 6,000 lbs. to 7,000 lbs. of rubber per month which would bring him $2,000 to $2,300 per month. He tried to get a contractor in December, 1955, but could not get one and so he sold the estate.

The decision of the Board of Review was as follows:—

"It is admitted that the appellant is not the nominee for any other interested person or company. The Board finds that the rubber estate was purchased and sold in pursuance of a scheme of purchase and resale. The Board does not accept the evidence of the appellant to the contrary. Nevertheless the Board is of the opinion that the profit made by the appellant is a capital appreciation and not a profit chargeable to tax. The appeal is allowed with costs."

The Comptroller now appeals to this Court on the ground that the Board was wrong in law in holding that the profit made by the taxpayer was capital appreciation and therefore not chargeable to tax under the provisions of section 10(1)(a) of the Ordinance.

The points which arise in this appeal are first, whether the $245,000 profit made by the taxpayer is profit from any trade or business of the taxpayer within the meaning of section 10(1)(a) and secondly, if it is, then whether it is assessable as income or is capital appreciation and therefore not chargeable to tax.

Section 10(1)(a) provides as follows:—

"10 ·(1) Income tax shall, subject to the provisions of this Ordinance, be payable at the rate or rates specified hereinafter for each year of assessment upon the income of any person accruing in or derived from the Colony or received in the Colony from outside the Colony in respect of —

(a) gains or profits from any trade, business, profession or vocation, for whatever period of time such trade, business, profession or vocation may have been carried on or exercised,"

The corresponding provisions in the English legislation are to be found in sections 122 and 123 of the Income Tax Act, 1952, the relevant portions of which are as follows:—

"122. The Schedule referred to in this Act as Schedule D is as follows —

SCHEDULE D

1. Tax under this Schedule shall be charged in respect of —

(a) the annual profits or gains arising or accruing —

(i) .....

(ii) to any person residing in the United Kingdom from any trade, profession, employment or vocation, whether carried on in the United Kingdom or elsewhere; and

(iii) to any person, whether a British subject or not, although not resident in the United Kingdom, ... from any trade, profession, employment or vocation exercised within the United Kingdom; and

123. — (1) Tax under Schedule D shall be charged under the following cases respectively, that is to say —

Case I — tax in respect of any trade carried on in the United Kingdom or elsewhere;

Case II — tax in respect of any profession or vocation not contained in any other Schedule;

It is to be noted that (1) the English Act does not expressly render taxable profits or gains from any "business" as is the case in the Singapore Ordinance; (2) the Singapore Ordinance has the additional words, which are not in the English Act, "for whatever period of time such trade, business, profession or vocation may have been carried on or exercised."

The first question for determination is whether the purchase and resale of the rubber estate by the taxpayer, having in mind that it is an isolated transaction, can be said to have constituted the trade or business of the taxpayer.

There is no definition of "trade" or "business" in the Singapore Ordinance. As local authorities are lacking it has been necessary for counsel for both parties to cite a number of English cases dealing with the word "trade" in Case I of Schedule D (section 123 (1) of the Income Tax Act of 1952).

There is, however, in the English Act a definition of "trade". It is to be found in section 526 where it is said to include "every trade, manufacture, adventure or concern in the nature of trade."

It is not necessary to discuss at length the English cases that were cited. It is clear from those authorities that a single transaction may fall within Case I of Schedule D.

The question whether a purchase is made with the express object of reselling at a profit is an important point in this connection. In *Rutledge* v. *Commissioners of Inland Revenue*,[1] the appellant was a business man with many interests and he purchased a large quantity of toilet paper very cheaply and within a short time sold the whole lot to one person at a considerable profit. He was assessed to tax on the profit and the Court upheld this assessment on the ground that the purchase was made for no other purpose than resale at a profit and was therefore an adventure in the nature of trade. The Lord President (Clyde) in the course of his judgment said (at page 497):

"It is no doubt true that the question whether a particular adventure is 'in the nature of trade' or not must depend on its character and circumstances, but if — as in the present case — the purchase is made for no other purpose except that of resale at a profit, there seems little difficulty in arriving at the conclusion that the deal was 'in the nature of trade' though it may be wholly insufficient to constitute by itself a trade."

Reverting to the facts of the present case, the taxpayer had no money, he had to borrow to buy the estate; he did not even inspect the estate before he purchased it; he sold it in a matter of less than three weeks; the Board found that the estate was purchased and sold in pursuance of a scheme of purchase and resale. It is obvious that the taxpayer did not buy the estate as an investment, he bought it for the express purpose of reselling it at a profit, and that was just what he did. In my view the transaction of the taxpayer would be an adventure in the nature of trade under the English Act.

Can it be said then that this isolated transaction of the taxpayer constituted a "trade" within the meaning of section 10(1)(a) of the Singapore Ordinance? I do not think so, as even under the English Act such a transaction would not be held to be a trade as distinct from an adventure in the nature of trade.

In the cases that were cited to me — *Commissioners of Inland Revenue* v. *Livingston*[2]; *Rutledge* v. *Commissioners of Inland Revenue*[1]; *Commissioners of Inland Revenue* v. *Fraser*[3]; *Edwards* v. *Bairstow*[4] — wherein an isolated transaction was held to constitute a trade, in every case such a transaction was held to be a trade by virtue of its being "an adventure in the nature of trade" which is included in the definition of "trade" in the English Act. In some of these cases it was expressly stated in the judgments that an isolated transaction would not constitute a trade as distinct from an adventure in the nature of trade. In *Commissioners of Inland Revenue* v. *Livingston*,[2] the Lord President (Clyde) said (at page 542):

"I think the profits of an isolated venture, such as that in which the respondents engaged, may be taxable under Schedule D provided the venture is 'in the nature of trade'."

In *Rutledge* v. *Commissioners of Inland Revenue*,[1] the Lord President (Clyde) said (at page 497):

". . . . there seems little difficulty in arriving at the conclusion that the deal was 'in the nature of trade' though it may be wholly insufficient to constitute by itself a trade."

In *Commissioners of Inland Revenue* v. *Fraser*,[3] the Lord President (Normand) said (at page 502):

"It would be extremely difficult to hold that a single transaction amounted to a trade but it may be much less difficult to hold that a single transaction is an adventure in the nature of trade."

In *Leeming* v. *Jones*,[5] (where an isolated transaction was found by the Commissioners not to be an adventure in the nature of trade and the case went to the Court of Appeal and to the House of Lords) Lawrence L.J. in giving his opinion in the Court of Appeal said (at page 354):

"It seems to me that in the case of an isolated transaction of purchase and resale of property there is really no middle course open. It is either an adventure in the nature of trade, or else it is simply a case of sale and resale of property."

This statement of Lawrence L.J. was quoted with approval in the House of Lords by Lord Buckmaster.

The question then arises whether this isolated transaction of the taxpayer constituted a "business" of the taxpayer within the meaning of section 10(1)(a).

Counsel for the Comptroller cited the Kenya case of *H. Co. Ltd.* v. *Commissioner of Income Tax*.[6] The headnote reads as follows:—

"The appellant company, a holding company with power under its Memorandum of Association to acquire, sell and dispose of any property and any business and to carry on any business so acquired, purchased an estate with a view to resale. It had previously and subsequently operated as a holding company. The estate was divided into four parts and sold to four different purchasers over a period of approximately 18 months. The appellant company employed an agent to dispose of the estate but save for some trifling expenditure on maintenance it incurred no expenditure on development nor did it set up any organisation to sell the estate.

The appellant company was assessed to income tax on the profit from the sale of the estate. It appealed to the Local Committee on the ground that the profit was not a gain from a trade or business but was a gain from an isolated transaction and also on the ground that the profit was a capital appreciation. The Local Committee confirmed the assessment.

The appellant company appealed to the Supreme Court.

Held — (1) That the word 'business' in Cap. 254 s. 7(1)(a) includes an isolated business transaction and that the profits from an isolated business transaction are, unless they are capital profits, liable to income tax.

(2) That where a holding company also carries on a trade or business then it is liable to income tax on the profits of such trade or business.

(3) That as the estate was purchased with a view to resale the profit therefrom was an income profit and not a capital appreciation."

Section 7(1)(a) of the Kenya Income Tax Ordinance is identical with section 10(1)(a) of the Singapore Ordinance. There is also no definition of "trade" or "business" in the Kenya legislation.

It was contended on behalf of the Comptroller that the isolated transaction of the taxpayer under consideration constituted a business of the taxpayer within the meaning of section 10(1)(a) and the profit derived from this business was income and not capital appreciation.

It would seem that this *Kenya case* provides support for the Comptroller's contention.

The word "business" has no doubt a more extensive meaning than the word "trade", (see *Harris* v. *Amery*[7]; in *Re a Debtor*[8]; *Hesketh Estates Ltd.* v. *Craddock*[9]). It has been suggested to me that "business" in section 10(1)(a) does not mean an isolated adventure but that it means the regular trade of people. It is true that the word "business" is commonly used as meaning any particular occupation or employment habitually engaged in especially for livelihood or gain but it is a word of large and indefinite import and includes anything which occupies the time, attention and labour of a man for the purpose of profit, (*per* Jessel M.R. in *Smith* v. *Anderson*,[10] at page 258) and the word means almost anything which is an occupation or duty requiring attention, (*per* Lindley L.J. in *Rolls* v. *Miller*,[11] at page 88) and it may mean any particular matter or affair of serious importance, (*per* Rowlatt J. in *Commissioners of Inland Revenue* v. *Marine Steam Turbine Co. Ltd.*,[12] at page 202). Looking at section 10(1)(a) and particularly at the words "whatever period of time such trade, business . . . . may have been carried on or exercised", it seems to me that the word "business" is wide enough to embrace an isolated commercial adventure like the transaction in the present case and I see no reason for limiting "business" in the way suggested on behalf of the taxpayer.

It was also contended on behalf of the taxpayer that section 10(1)(a) required that the business should have been carried on.

This very point was discussed and decided by Windham J. in the *Kenya case*[6] where the learned Judge said (at page 73):

"But the charging section of the Kenya Income Tax Ordinance, section 7(1)(a), does not require that the business from which the profits are derived shall have been 'carried on'; at least, it does not so require it unless it be held that the words 'for whatever period of time such trade, business, profession or vocation may have been carried on or exercised' can be held to impose a positive requirement that the business must have been 'carried on' (the word 'exercised' is inapplicable to 'business'), which would have the result of excluding from section 7(1)(a) a single business transaction which but for those words would have been caught.

I cannot construe those added words as cutting down in this way the scope of the words which precede them, a result which would be completely contrary to the clear

purpose of the added words, namely to extend rather than to restrict the scope of the preceding words. Could it reasonably be held, for instance, that the effect of the expression 'carried on' in those additional words would be that a company transacting a single piece of business which took two years to complete was not carrying on business or not carrying on a business, whilst a company transacting half a dozen similar pieces of business and completing them all within one year was carrying on business or a business? I think not. The object and effect of the added words, as I read them, is to leave no room for doubt that a business shall not be the less a business because it has endured but for a brief period of time, whether the business be a single business transaction or a carrying on of business in the more usual meaning of the word. It may at this point be observed that all the English decisions which I have earlier cited, wherein isolated transactions were held to constitute adventures in the nature of trade, were arrived at notwithstanding the requirement in Schedule D of the English Act that the tax shall extend to every trade 'carried on' in the United Kingdom or elsewhere."

I respectfully agree with the reasoning and decision of Windham J.

I accordingly hold that the purchase and resale of the rubber estate by the taxpayer in the present case constituted a "business" of the taxpayer.

The second question for determination is whether the profit from this business of the taxpayer is assessable as income or is capital appreciation and therefore not chargeable to tax. On authority this profit is clearly income and therefore assessable. The test was clearly laid down by Lord Justice Clerk in *California Copper Syndicate* v. *Harris*.[13] His Lordship said (at page 165):

"It is quite a well settled principle in dealing with questions of assessment of Income Tax, that where the owner of an ordinary investment chooses to realise it, and obtains a greater price for it than he originally acquired it at, the enhanced price is not profit in the sense of Schedule D of the Income Tax Act of 1842 assessable to Income Tax. But it is equally well established that enhanced values obtained from realisation or conversion of securities may be so assessable, where what is done is not merely a realisation or change of investment, but an act done in what is truly the carrying on, or carrying out, of a business. The simplest case is that of a person or association of persons buying and selling lands or securities speculatively, in order to make gain, dealing in such investments as a business, and thereby seeking to make profits. There are many companies which in their very inception are formed for such a purpose, and in these cases it is not doubtful that, where they make a gain by a realisation, the gain they make is liable to be assessed for Income Tax.

What is the line which separates the two classes of cases may be difficult to define, and each case must be considered according to its facts; the question to be determined being — Is the sum of gain that has been made a mere enhancement of value by realising a security, or is it a gain made in an operation of business in carrying out a scheme for profit making?"

Upon these grounds I think this Appeal succeeds and must be allowed with costs.

Appeal allowed.

Solicitors: *Lee & Lee.*

LOH KWANG SEANG
v. PUBLIC PROSECUTOR

[A. Cr. J. (Rigby J.) September 5, 1960]

[Penang — Criminal Appeal No. 22 of 1960]

Criminal Law and Procedure — Charge — Accepting bribe — Offence of extortion — Appellate Court — Whether has power to alter finding and substitute conviction under a different provision of law.

Judgment — Grounds of decision signed and delivered — Supplementing by adding — Whether permissible — Effect of.

The appellant, a police Inspector in the Special Branch, Penang, was convicted in the Sessions Court under section 3(a) of the Prevention of Corruption Ordinance, 1950, of corruptly accepting a bribe, to wit, a sum of $135 from one F.S.F. as an inducement for forbearing to do an act in relation to his principal's affairs, namely, by representing to the said F.S.F. that he had committed an offence against the law and that he (the appellant) would forbear to take any further action against him.

The evidence showed that the complainant F.S.F. had recently made a trip to China and after his return to Penang was interrogated by the appellant, whereupon the complainant admitted that he had taken with him to China a sum of $500. The appellant then told him that because he had taken the money to China, he (the appellant) could detain him, cancel his citizenship certificate, take his finger-prints and change his identity card into a black one. The appellant then told him that since he had been in this country for many years and had never been in trouble before, if he gave the appellant $150 nothing would happen to him. The complainant could raise $135 only and offered this sum to the appellant who accepted the amount and this acceptance of $135 later became the subject matter of the charge upon which he was convicted.

Upon appeal it was argued that even assuming the facts adduced by the prosecution to be true, those facts did not support the offence of corruption with which the appellant was charged; that certain findings of fact were against the weight of evidence; that inadmissible evidence had been admitted; that the complainant was an accomplice; and that the judgment was against the weight of evidence.

Held: (1) on the facts adduced, if believed, it was a simple, straight forward case of extortion and the appellant ought to have been charged under section 383 of the Penal Code. The appellant was not acting in relation to the affairs of his principal by representing to the complainant that he had committed an offence against the law because the complainant had committed no offence. The conviction on the charge of corruption was therefore wrong in law;

(2) having heard the evidence, the learned President was satisfied that the testimony of the prosecution witnesses was true, and, to use his own words, he was "left in no doubt" as to the guilt of the appellant. The ground of appeal that the verdict was against the weight of evidence must accordingly be dismissed;

(3) there was nothing in the record to suggest that the learned President had been influenced by the inadmissible evidence. This ground of appeal must accordingly be dismissed;

(4) it is not permissible for a trial court having signed and delivered its ground of decision to the appellant to supplement the grounds of decision or amplifying them in any way. The conduct of the learned President in amplifying his grounds by adding a further 27 lines of typewritten material to it was both irregular and improper but it was not such conduct as can be said to have occasioned a miscarriage of justice or such as could be said to warrant or require or even justify the trial being regarded a nullity and the conviction being quashed. The only effect of it was, that the appellate Court must consider the original judgment as it stood and exclude any consideration of the parts added;